IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4302 of 2006
With
SPECIAL CIVIL APPLICATION No. 4304 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MATHURABEN LAXMANBHAI DHAMECHA - Petitioner(s)
Versus
VALJIBHAI KESHABHAI SATWARA - Respondent(s)

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Appearance :
MR HARIN P RAVAL for Petitioner(s) : 1,
MR ASHISH M DAGLI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 12/04/2007

ORAL JUDGMENT

1. These petitions arise out of common proceedings. The petitioner is owner of a premises situated

at Sutar Street, Dhrangadhra. Admittedly, one Jabuben was the tenant of suit premises. The respondent herein claimed tenancy rights over the suit premises claiming to be a relative of Jabuben and residing with her when she expired on 2nd July, 1999. The petitioner had filed a civil suit no.60/99 before the Court of learned Civil Judge(SD) Dhrangadhra and also prayed for interim injunction. By an order dated 23rd October, 2000, the learned trial Judge while partially allowing the interim injunction application directed the parties to maintain status-quo.

2. Both the sides were aggrieved by this order and therefore, preferred separate Misc. Civil Appeals Nos. 40/2000 and 46/2000 before the District Court, Surendranagar at Dhrangadhra. These appeals therefore, were decided by the District Judge,Dhrangadhra by common order dated 7th August, 2001. The appeal filed by the landlord was disallowed. The appeal filed by the respondent herein was allowed. It is this order which has given rise to the present petitions.

3. Initially, the petitioner had filed two separate civil revision applications i.e. 1062/2001 and 1063/2001. After the amendment in Civil Procedure Code limiting the scope of Section 115 thereof, these Civil Revision Applications were permitted to be converted into Special Civil

Applications. In the Civil Revision Applications, this Court had on 17th September, 2001 issued rule and granted interim relief in terms of paragraph 17(D). Paragraph 17(D) of the Civil Revision Application reads as follows :

"(D) Pending hearing and final disposal of this revision application, this Hon'ble Court be pleased to stay the implementation, operation and execution of the impugned judgement and order dated 07.08.2001 rendered by the learned Joint District Judge, Surendranagar at Dhrangadhra in Misc. Civil Appeal No. 46 of 2000, arising from the judgement and order rendered below application Exh.6 in Regular Civil Suit No.60 of 1999 by the learned Joint Civil Judge, J.D., Dhangadhra, and further be pleased to direct the defendant-respondent-herein, his servants, agents friends and relatives to maintain the status-quo qua the suit premises;"

4. While permitting the petitioner to convert the civil revision applications into writ petitions on 28th February, 2006, Learned Single Judge of this Court had also continued interim relief till 16th March, 2006. Though apparently, no further extension of interim relief seems to have been granted, it is nobody's case that after 16th Marc/home/raghu/sca492306j2.sxwh, 2006, the position of the possession of the suit premises has changed in any manner.

5. Having heard learned advocates appearing for the parties, these petitions are being disposed of by consensus.

6. Since 2001, when this Court entertained the civil revision applications of the petitioner, interim relief in terms of paragraph 17(D) noted here-in-above is operating. Without going into the rival contentions regarding the legality of the order passed by the District Court, in the interest of justice, it is directed that the trial Court shall endeavour to dispose of the pending suit within a period of one year from the date of receipt of a copy of this order. Till this is done, interim relief granted in above terms shall continue to operate. I have expressed no opinion on the merits or demerits of the rival contentions.

7. With these directions, petitions are disposed of. Rule made absolute to the above extent with no order as to costs. Liberty to apply in case of difficulty.

(Akil Kureshi,J.)

(raghu)